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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: )  
 )  
**Isabelle ROLLAT et al.** ) Group Art Unit: 1617  
 )  
Application No.: 10/023,330 )  
 ) Examiner: Gina C. Yu  
Filed: December 20, 2001 )  
 )  
For: RESHAPABLE HAIR STYLING RINSE ) Confirmation No.: 5705  
COMPOSITION COMPRISING )  
(METH)ACRYLIC COPOLYMERS )

**Mail Stop Appeal Brief--Patents**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

In response to the Notice of Panel Decision from Pre-Appeal Brief Review dated February 6, 2008, and pursuant to 37 C.F.R. § 41.37, Appellants present this brief and enclose herewith a check for the fee of \$510.00 required under 37 C.F.R. § 41.20(b)(2). The period for filing the appeal brief has been extended to August 6, 2008, by the accompanying Petition and fee.

This appeal is in response to the final Office Action dated July 2, 2007 ("Final Office Action"), rejecting claims 167, 168, 171, 172, 174, 175, 177, 178, 180, 181, 185-191, 193-203, 205-208, 210-216, 218-228, 230-240, 242-245, 247-253, 255-258, 260-266, 268-278, 280, 290, 292-302, 304-307, and 309-311.

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**I. Real Party in Interest**

L'Oréal S.A. is the assignee of record as indicated by the assignment recorded on March 27, 2002, at Reel 012728, Frame 0931.

**II. Related Appeals and Interferences**

Appellants, Appellants' undersigned legal representative, or L'Oréal S.A. know of no other appeals or interferences which will directly affect, be directly affected by or have a bearing on the Board's decision in the pending appeal.

### III. Status of Claims

Claims 167, 168, 171, 172, 174, 175, 177, 178, 180, 181, 185-191, 193-203, 205-208, 210-216, 218-228, 230-240, 242-245, 247-253, 255-258, 260-266, 268-278, 280-290, 292-302, 304-307, and 309-311 are currently pending in this application.

Claims 1-166, 170, 173, 176, 179, 183, and 184 were canceled by the Amendment filed August 6, 2003. Claims 169, 182, 192, 204, 209, 217, 229, 241, 246, 254, 259, 267, 279, 291, 303, and 308 were canceled by the Amendment filed June 3, 2005.

"Claims 167, 168, 171, 172, 174, 175, 177, 178, 180, 181, 185-191, 193-203, 205-208, 210-216, 218-228, 230-240, 242-245, 247-253, 255-258, 260-266, 268-278, **280, 290**, 292-302, 304-307, and 309-311" are finally rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,019,377 to Torgerson et al. ("*Torgerson*") in view of U.S. Patent No. 6,013,722 to Yang et al. ("*Yang*"). See Final Office Action dated July 2, 2007, at page 2 (emphasis added). See also Notice of Panel Decision from Pre-Appeal Brief Review dated February 6, 2008.

Appellants note, however, that claims 281-289 are also pending. These pending claims were not rejected by the Examiner. Appellants therefore request clarification with respect to the status of pending claims 281-289.

Based on the absence of any indication in the record that claims 281-289 have been allowed by the Examiner, Appellants assume solely for purpose of presenting a complete Appeal Brief that claims were intended to be rejected by the Examiner. Thus, the rejection of claims 167, 168, 171, 172, 174, 175, 177, 178, 180, 181, 185-191, 193-203, 205-208, 210-216, 218-228, 230-240, 242-245, 247-253, 255-258, 260-266,

268-278, 280-290, 292-302, 304-307, and 309-311 under 35 U.S.C. § 103(a) is being  
appealed in this Appeal Brief.

**IV. Status of Amendments**

All amendments have been entered, and no amendments under 37 C.F.R.

§ 1.116 have been made after the Final Office Action dated July 2, 2007.

**V. Summary of Claimed Subject Matter**

The claims of the present invention recite a reshapable hair styling composition comprising at least one (meth)acrylic copolymer, wherein said at least one (meth)acrylic copolymer comprises: (a) units derived from at least one monomer chosen from n-butyl acrylate monomers, (b) units derived from at least one monomer chosen from 2-hydroxy ethyl (meth)acrylate monomers, and (c) units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers, wherein said composition provides a reshapable effect. In at least one embodiment of the present invention, the composition is a shampoo. In at least one embodiment of the present invention, the composition is a conditioner. In at least one embodiment of the present invention, the composition also comprises a surfactant. In at least one embodiment of the present invention, the composition also comprises a cationic surfactant. In at least one embodiment of the present invention, the composition also comprises a conditioning agent. Specification at page 3, lines 13-22; page 5 line 16 - page 7 line 2; page 9 line 20 - page 10 line 15; page 50 line 14 - page 51 line 2. Various embodiments of the present invention are recited in the eleven independent claims currently pending in this application, i.e., independent claims 167, 168, 171, 172, 174, 175, 177, 178, 180, 181, and 309, each described in detail below.

**Independent claim 167** is directed to a reshapable hair styling composition comprising: (1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein



said at least one (meth)acrylic copolymer comprises: (a) from about 10 to about 90 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers, (b) from about 2 to about 50 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl (meth)acrylate monomers, and (c) up to about 80 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers; and (2) at least one surfactant present in an amount ranging from about 5 to about 30 weight percent of the total weight of the composition, wherein said composition provides a reshapable effect and is a shampoo. *Id.* page 5 line 16 - page 6 line 3; page 19 lines 14-17; page 50 lines 18-21.

**Independent claim 168** is directed to a reshapable hair styling composition comprising: (1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises: (a) from about 10 to about 90 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers, (b) from about 2 to about 50 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl (meth)acrylate monomers, and (c) up to about 80 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers; and (2) at least one cationic surfactant present in an amount ranging from about 0.1 to about 15 weight percent of the total weight of the composition, wherein said composition provides a reshapable effect and is a conditioner. *Id.* page 5 line 16 - page 6 line 3; page 19 lines 14-17; page 50 line 21 - page 51 line 2.

**Independent claim 171** is directed to a reshapable hair styling composition comprising: (1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises: (a) from about 10 to about 90 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers, (b) from about 2 to about 50 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl (meth)acrylate monomers, and (c) up to about 80 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers; and (2) at least one conditioning agent, wherein said composition provides a reshapable effect and is a shampoo. *Id.* page 6 lines 4-14; page 19 lines 14-17.

**Independent claim 172** is directed to a reshapable hair styling composition comprising: (1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises: (a) from about 10 to about 90 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers, (b) from about 2 to about 50 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl (meth)acrylate monomers, and (c) up to about 80 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers; and (2) at least one conditioning agent, wherein said composition provides a reshapable effect and is a conditioner. *Id.* page 6 lines 4-14; page 19 lines 14-17.

**Independent claim 174** is directed to a reshapable hair styling composition comprising: (1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises: (a) from about 10 to about 90 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers, (b) from about 2 to about 50 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl (meth)acrylate monomers, and (c) up to about 80 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers; (2) at least one conditioning agent; and (3) at least one surfactant present in an amount ranging from about 5 to about 30 weight percent of the total weight of the composition, wherein said composition provides a reshapable effect and is a shampoo. *Id.* page 6 line 15 - page 7 line 2; page 19 lines 14-17; page 50 lines 18-21.

**Independent claim 175** is directed to a reshapable hair styling composition comprising: (1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises: (a) from about 10 to about 90 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers, (b) from about 2 to about 50 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl (meth)acrylate monomers, and (c) up to about 80 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers; (2) at least one conditioning agent; and (3) at least one

cationic surfactant present in an amount ranging from about 0.1 to about 15 weight percent of the total weight of the composition, wherein said composition provides a reshapable effect and is a conditioner. *Id.* page 6 line 15 - page 7 line 2; page 19 lines 14-17; page 50 line 21 - page 51 line 2.

**Independent claim 177** is directed to a reshapable hair styling composition comprising: (1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises: (a) from about 30 to about 40 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers, (b) from about 2 to about 10 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl methacrylate monomers, and (c) from about 50 to about 70 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers; and (2) at least one conditioning agent, wherein said composition provides a reshapable effect and is a shampoo. *Id.* page 7 line 14 - page 8 line 2; page 19 lines 14-17; page 50 lines 18-21.

**Independent claim 178** is directed to a reshapable hair styling composition comprising: (1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises: (a) from about 30 to about 40 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers, (b) from about 2 to about 10 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl methacrylate monomers, and (c) from about

50 to about 70 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers; and (2) at least one conditioning agent, wherein said composition provides a reshapable effect and is a conditioner. *Id.* page 7 line 14 - page 8 line 2; page 19 lines 14-17; page 50 line 21 - page 51 line 2.

**Independent claim 180** is directed to a reshapable hair styling composition comprising: (1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises: (a) from about 30 to about 40 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers, (b) from about 2 to about 10 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl methacrylate monomers, and (c) from about 50 to about 70 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers; and (2) at least one surfactant present in an amount ranging from about 5 to about 30 weight percent of the total weight of the composition, wherein said composition provides a reshapable effect and is a shampoo. *Id.* page 7 lines 3-13; page 19 lines 14-17; page 50 lines 18-21.

**Independent claim 181** is directed to a reshapable hair styling composition comprising: (1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises: (a) from about 30 to about 40 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers, (b) from about 2 to about 10 weight percent of units derived from at least

one monomer chosen from 2-hydroxy ethyl methacrylate monomers, and (c) from about 50 to about 70 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers; and (2) at least one cationic surfactant present in an amount ranging from about 0.1 to about 15 weight percent of the total weight of the composition, wherein said composition provides a reshapable effect and is a conditioner. *Id.* page 7 lines 3-13; page 19 lines 14-17; page 50 line 21 - page 51 line 2.

**Independent claim 309** is directed to a reshapable hair styling composition comprising: (1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises: (a) from about 10 to about 90 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers, (b) from about 2 to about 50 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl (meth)acrylate monomers, and (c) up to about 80 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers; (2) at least one surfactant present in an amount ranging from about 5 to about 30 weight percent of the total weight of the composition; and (3) at least one conditioning agent chosen from cationic polymers and silicones, wherein said composition provides a reshapable effect. *Id.* page 6 line 15 - page 7 line 2; page 19 lines 14-17; page 21 lines 1-2; page 50 lines 15-18.

**VI. Grounds of Rejection to Be Reviewed on Appeal**

A single ground of rejection is to be reviewed in this appeal:

(1) the rejection of claims 167, 168, 171, 172, 174, 175, 177, 178, 180, 181, 185-191, 193-203, 205-208, 210-216, 218-228, 230-240, 242-245, 247-253, 255-258, 260-266, 268-278, 280, 290, 292-302, 304-307, and 309-311 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,019,377 to Torgerson et al. ("*Torgerson*") in view of U.S. Patent No. 6,013,722 to Yang et al. ("*Yang*"). As stated above in Section III., Appellants are assuming for purposes of this Appeal Brief that claims 281-289 were intended to be included in the Examiner's rejection.

## VII. Argument

Each claim of the present application is separately patentable, and upon issuance of a patent will be entitled to a separate presumption of validity under 35 U.S.C. § 282. The arguments set forth below are arranged under subheadings, and in accordance with 37 C.F.R. § 41.37(c)(1)(vii), these subheadings indicate the claims whose patentability is argued separately.

### The § 103(a) Rejection

With respect to obviousness, several basic factual inquiries must be made in order to determine the obviousness or non-obviousness of claims under 35 U.S.C. § 103. These factual inquiries, set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 U.S.P.Q. 459, 467 (1966), require the Examiner to:

- (1) Determine the scope and content of prior art;
- (2) Ascertain the differences between the prior art and the claims in issue;
- (3) Resolve the level of ordinary skill in the pertinent art; and
- (4) Evaluate evidence of secondary considerations.

The obviousness or non-obviousness of the claimed invention is then evaluated in view of the results of these inquiries. *Graham*, 383 U.S. at 17-18, 148 U.S.P.Q. 467; see also *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1730, 82 U.S.P.Q.2d 1385, 1388 (2007).

Indeed, to establish a *prima facie* case of obviousness, the examiner must:

make a determination whether the claimed invention “as a whole” would have been obvious at that time to that person. Knowledge of applicant’s disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the “differences,” conduct the search and evaluate



the "subject matter as a whole" of the invention. The tendency to resort to "hindsight" based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.

M.P.E.P. § 2142, 8th Ed., Rev. 6 (September 2007). "The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. *Id.* It is important to note, moreover, that the prior art references relied upon in a rejection "must be considered in its entirety, i.e., as a whole, **including portions that would lead away from the claimed invention,**" when such reasons are articulated by the Examiner. *Graham*, 383 U.S. at 17, 148 U.S.P.Q. 467; *See also* M.P.E.P. § 2141.03(VI), 8th Ed., Rev. 6 (September 2007) (emphasis added).

Appellants respectfully submit that such reasons are not present in the rejection of record at least because the prior art references relied upon by the Examiner, i.e., *Torgerson* and *Yang*, when considered as a whole, provide no reason that would have prompted a person of ordinary skill in art to modify and combine the references in the manner suggested by the Examiner. In fact, for the reasons set forth below, Appellants submit that the prior art references, when considered as a whole, include portions that would discourage the modification and combination suggested by the Examiner.

A. **Claims 167, 168, 171, 172, 174, 175, 177, 178, 180, 181, 185, 186, 190, 191, 193-198, 202, 203, 205-208, 210, 211, 215, 216, 218-223, 227, 228, 230-235, 239, 240, 242-245, 247, 248, 252, 253, 255-258, 260, 261, 265, 266, 268-273, 277, 278, 280-285, 289, 290, 292-302, 304-307, and 309-311 Are Patentable Over *Torgerson* in View of *Yang***

1) *Consideration of the Prior Art as a Whole Teaches Away From Combination Suggested By The Examiner*

The Examiner states that it would have been obvious to combine the prior art “**by substituting** the adhesive polymer [of *Torgerson*] with the adhesive copolymer comprising n-butyl acrylate/2-hydroxy ethyl (meth)acrylate/2-ethyl hexyl acrylate monomers [of *Yang*].” Final Office Action at 5 (emphasis added). Appellants disagree and submit that one of ordinary skill in the art would have had no reason to combine elements from *Torgerson* and *Yang* since their disclosures are directed to adhesive compositions with distinctly different properties and uses.

*Torgerson* teaches that its adhesive copolymers are “particularly useful in hair styling products” and “for providing **temporary** set style hold,” defining such “temporary set” as “a temporary arrangement which can be **removed by water** or by shampooing.” *Torgerson* at col. 2, lines 14-19 and 60-61, and col. 1, lines 29-31 (emphasis added). In contrast, *Yang* repeatedly emphasizes that its adhesives, which are designed “for use in decorative, light management or optical articles,” are “water-resistant,” “water-insensitive,” and “resistant to the effects of high humidity.” See, e.g., *Yang* at col. 1, lines 8-9, col. 2, lines 58-60; col. 3, lines 1-6; col. 6, lines 58-64; Claims 1-11. Indeed, *Yang* nowhere suggests application of its adhesives to hair. Instead, *Yang* teaches that “[t]he **water-resistant** pressure sensitive adhesives of the present invention are easily coated upon suitable flexible backing materials . . . Typical examples of flexible backing

materials employed as conventional tape backing that may be useful for the adhesive compositions include those made of paper, plastic films such as polypropylene, polyethylene, polyurethane, polyvinyl chloride, polyester (e.g., polyethylene-teraphthalate), cellulose acetate, and ethyl cellulose.” *Id.* at col. 6, lines 28-41. Based at least on these disparate properties and uses, one of ordinary skill in the art, upon consideration of the references as a whole, would have had no motivation to combine elements from *Torgerson* and *Yang*.

Furthermore, Appellants respectfully submit that the combination proposed by the Examiner requires an impermissible modification of the prior art. *Torgerson* teaches the use in hair styling hold compositions of low glass transition temperature adhesive copolymers of the general chemical structure  $(H_x)_m-(L_y)_n$  defined “wherein H is one or more monomer components having homopolymers with relatively high glass transition temperatures, with **at least one H monomer being selected from acrylate amides or methacrylate amides**; L is one or more monomer components having homopolymers with relatively low glass transition temperatures, with **at least one L component being selected from acrylate ester or methacrylate esters**.” *Torgerson* at col. 3, lines 25-34 (emphasis added).

*Yang*, on the other hand, is directed to pressure-sensitive adhesive compositions comprising “(a) 50-90% by weight n-butyl acrylate, and (b) 10-50% by weight 2-hydroxy ethyl acrylate, or 2-hydroxy ethyl methacrylate, or hydroxypropyl acrylate monomer, or mixtures thereof.” *Yang* at col. 13, lines 61-65; see also col. 3, lines 13-18.

Compositions according to *Yang* may optionally comprise additional copolymerizable

monomers chosen from a list which includes, among numerous alternatives, 2-ethyl hexyl acrylate. *Id.* at col. 3, lines 18-45.

Appellants respectfully submit that the Examiner's allegation that it would have been obvious to substitute the adhesive polymer of *Torgerson* with the adhesive copolymer of *Yang* fails to take into account the scope and content of *Torgerson* as a whole. *Torgerson* **requires** the presence of the (meth)acrylate amides in its polymer, and no such monomers are disclosed in *Yang*. Accordingly, one of ordinary skill would have no expectation of success in using *Yang*'s copolymer in a composition according to *Torgerson*.

In response to Appellants' observation that the combination proposed by the Examiner necessarily requires omission of the acrylate and methacrylate amides of *Torgerson*, the Examiner asserted in the Final Office Action that "there is teaching, suggestion, or motivation, either explicit or implicit, to exclude those polymers." Final Office Action at 7. Appellants disagree, and submit no such teaching exists.

*Torgerson* specifically and repeatedly teaches that its copolymers **must** comprise "at least one H monomer component being selected from acrylate amides or methacrylate amides." *Torgerson* at col. 3, lines 28-30; *see also*, col. 2, lines 66-68; *see also*, claims 1 and 2. Each and every adhesive copolymer according to the invention disclosed by *Torgerson* comprises at least one acrylate amide or methacrylate amide component, with the lowest disclosed amide content being 10 wt%. *Id.* at col. 5, line 5 - col. 6, line 10; *see also*, Examples I-XV. At no point in the entire disclosure of *Torgerson* is omission of the amides allowed for, let alone suggested by the disclosure of this reference.

Omission of acrylate amides and methacrylate amides would render copolymers according to *Torgerson* unsatisfactory for *Torgerson's* intended purpose. *In re Gordon*, 733 F.2d 900, 221 U.S.P.Q. 1125 (Fed. Cir. 1984), instructs that “[i]f proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” Accordingly, the combination proposed by the Examiner requires an impermissible modification of the prior art.

Finally, the Federal Circuit has stated that “rejections based on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” M.P.E.P. § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 127 S. Ct. at 1741, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). Here, the Examiner has failed to identify any teaching in the cited references to support the claim that “there is teaching, suggestion, or motivation, either explicit or implicit, to exclude those polymers.” Final Office Action at 7. Without clear identification and articulation of the alleged “teaching, suggestion, or motivation” to omit the acrylate and methacrylate amides of *Torgerson*, the Examiner’s assertion that such an omission would have been obvious amounts to a mere conclusory statement.

2) *Yang Does Not Indicate Functional Equivalence Of n-Butyl Acrylate/2-Ethyl Hexyl Acrylate Copolymer And n-Butyl Acrylate/2-Hydroxy Ethyl (Meth)Acrylate Copolymers*

In the Final Office Action, the Examiner asserts that “Yang teaches the similarity between n-butyl acrylate/2-ethyl hexyl acrylate copolymer and n-butyl acrylate/2-

hydroxy ethyl (meth)acrylate copolymers” and that “[s]ince Yang teaches that 2-ethyl hexyl acrylate and 2-hydroxy ethyl (meth)acrylate are used for the same purposes, combining these monomers to make a copolymer for the known properties of would have been well within the skill in the art.” Final Office Action at 7. Appellants disagree.

As discussed above, all the adhesives of *Yang* comprise n-butyl acrylate **and** either 2-hydroxy ethyl acrylate, 2-hydroxy ethyl (meth)acrylate, or hydroxy propyl acrylate. Optionally, adhesives according to *Yang* **may** also comprise, **in addition to n-butyl acrylate and at least one of 2-hydroxy ethyl acrylate, 2-hydroxy ethyl (meth)acrylate, and hydroxy propyl acrylate**, monomer units chosen from a list which includes, among numerous alternatives, 2-ethyl hexyl acrylate. Thus, even if these optional monomers are added to the adhesive in accordance with the teachings of *Yang*, **at least one** of 2-hydroxy ethyl acrylate, 2-hydroxy ethyl (meth)acrylate, **and** hydroxy propyl acrylate monomeric units **must be present** in the resulting copolymer of *Yang*. Therefore, *Yang* does not teach any similarity between n-butyl acrylate/ethyl hexyl acrylate copolymers and n-butyl acrylate/2-hydroxy ethyl (meth)acrylate copolymers because *Yang* simply does not allow for copolymers in which 2-ethyl hexyl acrylate monomers **substitute completely** for 2-hydroxy ethyl (meth)acrylate monomers.

In the absence of any indication of functional equivalency between n-butyl acrylate/2-ethyl hexyl acrylate and n-butyl acrylate/2-hydroxy ethyl (meth)acrylate copolymers, one of ordinary skill in the art would therefore have lacked the guidance necessary to pick and choose from *Yang*'s numerous disclosed monomers only those of relevance to the present invention.

3) *Neither Yang nor Torgerson Teaches or Suggests Reshapable Effect Presently Claimed*

Finally, Appellants submit that one of ordinary skill in the art would have had no motivation or expectation for success in combining *Torgerson* and *Yang* to obtain a composition providing a reshapable hair styling effect, as presently claimed. Contrary to the Examiner's assertion that "[t]he recited reshapable effect of the composition of the combined references would have been immediately apparent to the skilled artisan who was combined the compositions as motivated by the references" (Final Office Action at p. 6), *Torgerson* and *Yang* are directed to adhesive compositions with distinctly different properties. *Torgerson* teaches that its adhesive compositions are useful "for providing **temporary** set style hold," defining such "temporary set" as "a temporary arrangement which can be **removed by water** or by shampooing." *Torgerson* at col. 2, lines 14-19, and col. 1, lines 29-31 (emphasis added). In contrast, *Yang* repeatedly emphasizes that its adhesive compositions are "water-resistant," "water-insensitive," and "resistant to the effects of high humidity." See, e.g., *Yang* at col. 2, lines 58-60; col. 3, lines 1-6; col. 6, lines 58-64; Claims 1-11. Thus, one of ordinary skill could not have predicted the properties of a composition combining adhesives according to *Torgerson*, which wash away in water, with adhesives according to *Yang*, which are impervious to water.

Moreover, in response to Appellants' previous argument that the prior art does not teach or suggest the claimed "reshapable effect," the Examiner states that "[t]he rejection is not based on inherency." Final Office Action at 6. This statement seems to be at odds with the Examiner's previous statement that "[t]he recitation 'reshapable' denotes a physical property of the claimed composition." *Id.* at 5. Turning again to the

Examiner's assertion that "[t]he recited reshapable effect of the composition of the combined references would have been immediately apparent to the skilled artisan" (*Id.*), Appellants respectfully disagree and submit that the Examiner has pointed to no reasoning that would support this conclusion. *Torgerson* and *Yang* are directed to adhesive compositions with divergent properties, and both are simply silent with respect to reshapable effect. Notably, "[o]bviousness cannot be predicated on what is not known at the time an invention is made." *In re Rijckaert*, 9 F.2d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993).

For at least the preceding reasons, Appellants respectfully submit that the rejection of claims 167, 168, 171, 172, 174, 175, 177, 178, 180, 181, 185, 186, 190, 191, 193-198, 202, 203, 205-208, 210, 211, 215, 216, 218-223, 227, 228, 230-235, 239, 240, 242-245, 247, 248, 252, 253, 255-258, 260, 261, 265, 266, 268-273, 277, 278, 280-285, 289, 290, 292-302, 304-307, and 309-311 under 35 U.S.C. § 103 over *Torgerson* in view of *Yang* is improper.

**B. Claims 187-189, 199-201, 212-214, 224-226, 236-238, 249-251, 262-264, 274-276, 286-288, and 298-300 Are Patentable Over *Torgerson* in View of *Yang***

For the reasons set forth in Section A, Appellants submit that claims 187-189, 199-201, 212-214, 224-226, 236-238, 249-251, 262-264, 274-276, 286-288, and 298-300 are patentable over *Torgerson* in view of *Yang*. In addition, Appellants submit that the prior art references, when considered as a whole, would not have motivated one of ordinary skill in the art to prepare compositions comprising at least one (meth)acrylic copolymer crosslinked with at least one polyfunctional cross-linking agent, as recited in claims 187, 199, 212, 224, 236, 249, 262, 274, 286, and 298.



*Torgerson* teaches the use in hair styling hold compositions of low glass transition temperature adhesive copolymers which it characterizes thusly:

Furthermore, a low glass transition temperature adhesive copolymer of the present invention comprises the hereinbefore described monomer components randomly distributed in a copolymer chain (preferably in a **substantially linear copolymer chain, i.e., having little or no cross-linking or branching of the copolymer chains**) ...

*Torgerson* at col. 3, lines 46-52 (emphasis added).

*Yang*, in contrast, is directed to pressure-sensitive adhesive compositions comprising “(a) 50-90% by weight ... n-butyl acrylate, (b) 10-50% by weight ... 2-hydroxy ethyl acrylate, or 2-hydroxy ethyl methacrylate, hydroxypropyl acrylate monomer, or mixtures thereof, (c) **optionally, multifunctional co-polymerizable monomers** and (d) **optionally, a multifunctional cross-linking agent ...**” *Yang* at col. 2, lines 22-28 (emphasis added).

Thus, with regard to claims 187, 199, 212, 224, 236, 249, 262, 274, 286, and 298 the Examiner’s allegation that it “would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hair styling composition of *Torgerson* by substituting the adhesive polymer with the adhesive copolymer comprising n-butyl acrylate/2-hydroxy ethyl (meth)acrylate/2-ethyl hexyl acrylate monomers as motivated by *Yang*” is in error for at least the additional reason that it fails to take into account the scope and content of *Torgerson* as a whole. In order to arrive at compositions resembling those presently claimed, one would need to modify compositions according to *Torgerson* by substituting *Yang*’s compositions comprising multifunctional cross-linking agents for the “substantially linear copolymer chain, i.e.,

**having little or no cross-linking or branching** of the copolymer chains” taught by *Torgerson*. However, as discussed above, *Torgerson* explicitly teaches that such a modification would render the resulting compositions unsatisfactory for *Torgerson*'s intended purpose. However, “[i]f [the] proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” *In re Gordon*, 733 F.2d at 900, 221 U.S.P.Q. at 1125. Since the combination proposed by the Examiner requires an impermissible modification of the prior art, the rejection of claims 187, 199, 212, 224, 236, 249, 262, 274, 286, and 298 under 35 U.S.C. § 103 over *Torgerson* in view of *Yang* is improper for at least this additional reason. Accordingly, claims 187, 199, 212, 224, 236, 249, 262, 274, 286, and 298, as well as their dependent claims 188, 189, 200, 201, 213, 214, 225, 226, 237, 238, 250, 251, 263, 264, 275, 276, 287, 288, 299, and 300, are patentable over *Torgerson* in view of *Yang*.

**Conclusion**

In view of the foregoing arguments, Appellants respectfully submit that the pending claims are allowable. Appellants respectfully request reversal of the outstanding § 103(a) rejection.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this Appeal Brief, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: August 5, 2008

By:   
Mark D. Sweet  
Reg. No. 41,469

**VIII. Claims Appendix**

1-166. (Canceled).

167. (Previously Presented) A reshapable hair styling composition comprising:

(1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises:

(a) from about 10 to about 90 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers,

(b) from about 2 to about 50 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl (meth)acrylate monomers, and

(c) up to about 80 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers, and

(2) at least one surfactant present in an amount ranging from about 5 to about 30 weight percent of the total weight of the composition,

wherein said composition provides a reshapable effect and is a shampoo.

168. (Previously Presented) A reshapable hair styling composition comprising:

(1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises:

(a) from about 10 to about 90 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers,

(b) from about 2 to about 50 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl (meth)acrylate monomers, and

(c) up to about 80 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers, and

(2) at least one cationic surfactant present in an amount ranging from about 0.1 to about 15 weight percent of the total weight of the composition,

wherein said composition provides a reshapable effect and is a conditioner.

169-170. (Canceled).

171. (Previously Presented) A reshapable hair styling composition comprising:

(1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises:

(a) from about 10 to about 90 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers,

(b) from about 2 to about 50 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl (meth)acrylate monomers, and

(c) up to about 80 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers, and

(2) at least one conditioning agent,

wherein said composition provides a reshapable effect and is a shampoo.

172. (Previously Presented) A reshapable hair styling composition comprising:

(1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises:

(a) from about 10 to about 90 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers,

(b) from about 2 to about 50 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl (meth)acrylate monomers, and

(c) up to about 80 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers, and

(2) at least one conditioning agent,

wherein said composition provides a reshapable effect and is a conditioner.

173. (Canceled).

174. (Previously Presented) A reshapable hair styling composition comprising:

(1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises:

(a) from about 10 to about 90 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers,

(b) from about 2 to about 50 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl (meth)acrylate monomers, and

(c) up to about 80 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers,

(2) at least one conditioning agent, and

(3) at least one surfactant present in an amount ranging from about 5 to about 30 weight percent of the total weight of the composition,

wherein said composition provides a reshapable effect and is a shampoo.

175. (Previously Presented) A reshapable hair styling composition comprising:

(1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises:

(a) from about 10 to about 90 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers,

(b) from about 2 to about 50 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl (meth)acrylate monomers, and

(c) up to about 80 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers,

(2) at least one conditioning agent, and

(3) at least one cationic surfactant present in an amount ranging from about 0.1 to about 15 weight percent of the total weight of the composition,

wherein said composition provides a reshapable effect and is a conditioner.

176. (Canceled).

177. (Previously Presented) A reshapable hair styling composition comprising:

(1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises:

(a) from about 30 to about 40 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers,

(b) from about 2 to about 10 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl methacrylate monomers, and

(c) from about 50 to about 70 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers, and

(2) at least one conditioning agent,

wherein said composition provides a reshapable effect and is a shampoo.

178. (Previously Presented) A reshapable hair styling composition comprising:

(1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises:

(a) from about 30 to about 40 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers,



(b) from about 2 to about 10 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl methacrylate monomers, and

(c) from about 50 to about 70 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers, and

(2) at least one conditioning agent,

wherein said composition provides a reshapable effect and is a conditioner.

179. (Canceled).

180. (Previously Presented) A reshapable hair styling composition comprising:

(1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises:

(a) from about 30 to about 40 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers,

(b) from about 2 to about 10 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl methacrylate monomers, and

(c) from about 50 to about 70 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers, and

(2) at least one surfactant present in an amount ranging from about 5 to about 30 weight percent of the total weight of the composition,

wherein said composition provides a reshapable effect and is a shampoo.

181. (Previously Presented) A reshapable hair styling composition comprising:

(1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises:

(a) from about 30 to about 40 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers,

(b) from about 2 to about 10 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl methacrylate monomers, and

(c) from about 50 to about 70 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers, and

(2) at least one cationic surfactant present in an amount ranging from about 0.1 to about 15 weight percent of the total weight of the composition,

wherein said composition provides a reshapable effect and is a conditioner.

182-184. (Canceled).

185. (Previously Presented) The composition according to claim 167, wherein the composition further comprises a cosmetically acceptable vehicle.

186. (Previously Presented) The composition according to claim 167, wherein said at least one (meth)acrylic copolymer is an emulsion.

187. (Previously Presented) The composition according to claim 167, wherein said at least one (meth)acrylic copolymer is crosslinked with at least one polyfunctional cross-linking agent.

188. (Previously Presented) The composition according to claim 187, wherein said at least one polyfunctional crosslinking agent is chosen from divinylbenzene, alkyl diacrylates, alkyl triacrylates, alkyl tetracrylates, and monoethylenically unsaturated aromatic ketones.

189. (Previously Presented) The composition according to claim 187, wherein said at least one polyfunctional crosslinking agent is chosen from multifunctional aziridine amides and metal ion crosslinkers.

190. (Previously Presented) The composition according to claim 186, wherein said emulsion has a pH less than or equal to about 7.

191. (Previously Presented) The composition according to claim 167, wherein said at least one (meth)acrylic copolymer is chosen from nonionic and weakly anionic (meth)acrylic copolymers.

192. (Canceled).

193. (Previously Presented) The composition according to claim 167, wherein the amount of said at least one (meth)acrylic copolymer ranges from about 0.1 to about 15 weight percent.

194. (Previously Presented) The composition according to claim 167, wherein said at least one (meth)acrylic copolymer has a T<sub>g</sub> ranging from about -100 °C to about 15 °C.

195. (Previously Presented) The composition according to claim 167, further comprising at least one constituent chosen from reducing agents; silanes; fatty

substances; thickeners; plasticizers; anti-foaming agents; hydrating agents; fillers; sunscreens; active haircare agents; perfumes; preservatives; cationic, anionic, nonionic, and amphoteric surfactants; cationic, anionic, nonionic, and amphoteric polymers; polyols; proteins; provitamins; vitamins; dyes; tints; bleaches; and pH adjusting agents.

196. (Previously Presented) The composition according to claim 195, wherein said at least one constituent is chosen from cationic, anionic, nonionic, and amphoteric polymers.

197. (Previously Presented) The composition according to claim 168, wherein the composition further comprises a cosmetically acceptable vehicle.

198. (Previously Presented) The composition according to claim 168, wherein said at least one (meth)acrylic copolymer is an emulsion.

199. (Previously Presented) The composition according to claim 168, wherein said at least one (meth)acrylic copolymer is crosslinked with at least one polyfunctional cross-linking agent.

200. (Previously Presented) The composition according to claim 199, wherein said at least one polyfunctional crosslinking agent is chosen from divinylbenzene, alkyl diacrylates, alkyl triacrylates, alkyl tetracrylates, and monoethylenically unsaturated aromatic ketones.

201. (Previously Presented) The composition according to claim 199, wherein said at least one polyfunctional crosslinking agent is chosen from multifunctional aziridine amides and metal ion crosslinkers.

202. (Previously Presented) The composition according to claim 198, wherein said emulsion has a pH less than or equal to about 7.

203. (Previously Presented) The composition according to claim 168, wherein said at least one (meth)acrylic copolymer is chosen from nonionic and weakly anionic (meth)acrylic copolymers.

204. (Canceled).

205. (Previously Presented) The composition according to claim 168, wherein the amount of said at least one (meth)acrylic copolymer ranges from about 0.1 to about 15 weight percent.

206. (Previously Presented) The composition according to claim 168, wherein said at least one (meth)acrylic copolymer has a T<sub>g</sub> ranging from about -100 °C to about 15 °C.

207. (Previously Presented) The composition according to claim 168, further comprising at least one constituent chosen from reducing agents; silanes; fatty substances; thickeners; plasticizers; anti-foaming agents; hydrating agents; fillers; sunscreens; active haircare agents; perfumes; preservatives; cationic, anionic, nonionic, and amphoteric surfactants; cationic, anionic, nonionic, and amphoteric polymers; polyols; proteins; provitamins; vitamins; dyes; tints; bleaches; and pH adjusting agents.

208. (Previously Presented) The composition according to claim 207, wherein said at least one constituent is chosen from cationic, anionic, nonionic, and amphoteric polymers.

209. (Canceled).

210. (Previously Presented) The composition according to claim 171, wherein the composition further comprises a cosmetically acceptable vehicle.

211. (Previously Presented) The composition according to claim 171, wherein said at least one (meth)acrylic copolymer is an emulsion.

212. (Previously Presented) The composition according to claim 171, wherein said at least one (meth)acrylic copolymer is crosslinked with at least one polyfunctional cross-linking agent.

213. (Previously Presented) The composition according to claim 212, wherein said at least one polyfunctional crosslinking agent is chosen from divinylbenzene, alkyl diacrylates, alkyl triacrylates, alkyl tetracrylates, and monoethylenically unsaturated aromatic ketones.

214. (Previously Presented) The composition according to claim 212, wherein said at least one polyfunctional crosslinking agent is chosen from multifunctional aziridine amides and metal ion crosslinkers.

215. (Previously Presented) The composition according to claim 211, wherein said emulsion has a pH less than or equal to about 7.

216. (Previously Presented) The composition according to claim 171, wherein said at least one (meth)acrylic copolymer is chosen from nonionic and weakly anionic (meth)acrylic copolymers.

217. (Canceled).

218. (Previously Presented) The composition according to claim 171, wherein the amount of said at least one (meth)acrylic copolymer ranges from about 0.1 to about 15 weight percent.

219. (Previously Presented) The composition according to claim 171, wherein said at least one (meth)acrylic copolymer has a T<sub>g</sub> ranging from about -100 °C to about 15 °C.

220. (Previously Presented) The composition according to claim 171, further comprising at least one constituent chosen from reducing agents; silanes; fatty substances; thickeners; plasticizers; anti-foaming agents; hydrating agents; fillers; sunscreens; active haircare agents; perfumes; preservatives; cationic, anionic, nonionic, and amphoteric surfactants; cationic, anionic, nonionic, and amphoteric polymers; polyols; proteins; provitamins; vitamins; dyes; tints; bleaches; and pH adjusting agents.

221. (Previously Presented) The composition according to claim 220, wherein said at least one constituent is chosen from cationic, anionic, nonionic, and amphoteric polymers.

222. (Previously Presented) The composition according to claim 172, wherein the composition further comprises a cosmetically acceptable vehicle.

223. (Previously Presented) The composition according to claim 172, wherein said at least one (meth)acrylic copolymer is an emulsion.

224. (Previously Presented) The composition according to claim 172, wherein said at least one (meth)acrylic copolymer is crosslinked with at least one polyfunctional cross-linking agent.

225. (Previously Presented) The composition according to claim 224, wherein said at least one polyfunctional crosslinking agent is chosen from divinylbenzene, alkyl diacrylates, alkyl triacrylates, alkyl tetracrylates, and monoethylenically unsaturated aromatic ketones.

226. (Previously Presented) The composition according to claim 224, wherein said at least one polyfunctional crosslinking agent is chosen from multifunctional aziridine amides and metal ion crosslinkers.

227. (Previously Presented) The composition according to claim 223, wherein said emulsion has a pH less than or equal to about 7.

228. (Previously Presented) The composition according to claim 172, wherein said at least one (meth)acrylic copolymer is chosen from nonionic and weakly anionic (meth)acrylic copolymers.

229. (Canceled).

230. (Previously Presented) The composition according to claim 172, wherein the amount of said at least one (meth)acrylic copolymer ranges from about 0.1 to about 15 weight percent.

231. (Previously Presented) The composition according to claim 172, wherein said at least one (meth)acrylic copolymer has a T<sub>g</sub> ranging from about -100 °C to about 15 °C.



232. (Previously Presented) The composition according to claim 172, further comprising at least one constituent chosen from reducing agents; silanes; fatty substances; thickeners; plasticizers; anti-foaming agents; hydrating agents; fillers; sunscreens; active haircare agents; perfumes; preservatives; cationic, anionic, nonionic, and amphoteric surfactants; cationic, anionic, nonionic, and amphoteric polymers; polyols; proteins; provitamins; vitamins; dyes; tints; bleaches; and pH adjusting agents.

233. (Previously Presented) The composition according to claim 232, wherein said at least one constituent is chosen from cationic, anionic, nonionic, and amphoteric polymers.

234. (Previously Presented) The composition according to claim 174, wherein the composition further comprises a cosmetically acceptable vehicle.

235. (Previously Presented) The composition according to claim 174, wherein said at least one (meth)acrylic copolymer is an emulsion.

236. (Previously Presented) The composition according to claim 174, wherein said at least one (meth)acrylic copolymer is crosslinked with at least one polyfunctional cross-linking agent.

237. (Previously Presented) The composition according to claim 236, wherein said at least one polyfunctional crosslinking agent is chosen from divinylbenzene, alkyl diacrylates, alkyl triacrylates, alkyl tetracrylates, and monoethylenically unsaturated aromatic ketones.

238. (Previously Presented) The composition according to claim 236, wherein said at least one polyfunctional crosslinking agent is chosen from multifunctional aziridine amides and metal ion crosslinkers.

239. (Previously Presented) The composition according to claim 235, wherein said emulsion has a pH less than or equal to about 7.

240. (Previously Presented) The composition according to claim 174, wherein said at least one (meth)acrylic copolymer is chosen from nonionic and weakly anionic (meth)acrylic copolymers.

241. (Canceled).

242. (Previously Presented) The composition according to claim 174, wherein the amount of said at least one (meth)acrylic copolymer ranges from about 0.1 to about 15 weight percent.

243. (Previously Presented) The composition according to claim 174, wherein said at least one (meth)acrylic copolymer has a T<sub>g</sub> ranging from about -100 °C to about 15 °C.

244. (Previously Presented) The composition according to claim 174, further comprising at least one constituent chosen from reducing agents; silanes; fatty substances; thickeners; plasticizers; anti-foaming agents; hydrating agents; fillers; sunscreens; active haircare agents; perfumes; preservatives; cationic, anionic, nonionic, and amphoteric surfactants; cationic, anionic, nonionic, and amphoteric polymers; polyols; proteins; provitamins; vitamins; dyes; tints; bleaches; and pH adjusting agents.

245. (Previously Presented) The composition according to claim 244, wherein said at least one constituent is chosen from cationic, anionic, nonionic, and amphoteric polymers.

246. (Canceled).

247. (Previously Presented) The composition according to claim 175, wherein the composition further comprises a cosmetically acceptable vehicle.

248. (Previously Presented) The composition according to claim 175, wherein said at least one (meth)acrylic copolymer is an emulsion.

249. (Previously Presented) The composition according to claim 175, wherein said at least one (meth)acrylic copolymer is crosslinked with at least one polyfunctional cross-linking agent.

250. (Previously Presented) The composition according to claim 249, wherein said at least one polyfunctional crosslinking agent is chosen from divinylbenzene, alkyl diacrylates, alkyl triacrylates, alkyl tetracrylates, and monoethylenically unsaturated aromatic ketones.

251. (Previously Presented) The composition according to claim 249, wherein said at least one polyfunctional crosslinking agent is chosen from multifunctional aziridine amides and metal ion crosslinkers.

252. (Previously Presented) The composition according to claim 248, wherein said emulsion has a pH less than or equal to about 7.

253. (Previously Presented) The composition according to claim 175, wherein said at least one (meth)acrylic copolymer is chosen from nonionic and weakly anionic (meth)acrylic copolymers.

254. (Canceled).

255. (Previously Presented) The composition according to claim 175, wherein the amount of said at least one (meth)acrylic copolymer ranges from about 0.1 to about 15 weight percent.

256. (Previously Presented) The composition according to claim 175, wherein said at least one (meth)acrylic copolymer has a Tg ranging from about -100 °C to about 15 °C.

257. (Previously Presented) The composition according to claim 175, further comprising at least one constituent chosen from reducing agents; silanes; fatty substances; thickeners; plasticizers; anti-foaming agents; hydrating agents; fillers; sunscreens; active haircare agents; perfumes; preservatives; cationic, anionic, nonionic, and amphoteric surfactants; cationic, anionic, nonionic, and amphoteric polymers; polyols; proteins; provitamins; vitamins; dyes; tints; bleaches; and pH adjusting agents.

258. (Previously Presented) The composition according to claim 257, wherein said at least one constituent is chosen from cationic, anionic, nonionic, and amphoteric polymers.

259. (Canceled).

260. (Previously Presented) The composition according to claim 177, wherein the composition further comprises a cosmetically acceptable vehicle.

261. (Previously Presented) The composition according to claim 177, wherein said at least one (meth)acrylic copolymer is an emulsion.

262. (Previously Presented) The composition according to claim 177, wherein said at least one (meth)acrylic copolymer is crosslinked with at least one polyfunctional cross-linking agent.

263. (Previously Presented) The composition according to claim 262, wherein said at least one polyfunctional crosslinking agent is chosen from divinylbenzene, alkyl diacrylates, alkyl triacrylates, alkyl tetracrylates, and monoethylenically unsaturated aromatic ketones.

264. (Previously Presented) The composition according to claim 262, wherein said at least one polyfunctional crosslinking agent is chosen from multifunctional aziridine amides and metal ion crosslinkers.

265. (Previously Presented) The composition according to claim 261, wherein said emulsion has a pH less than or equal to about 7.

266. (Previously Presented) The composition according to claim 177, wherein said at least one (meth)acrylic copolymer is chosen from nonionic and weakly anionic (meth)acrylic copolymers.

267. (Canceled).

268. (Previously Presented) The composition according to claim 177, wherein the amount of said at least one (meth)acrylic copolymer ranges from about 0.1 to about 15 weight percent.

269. (Previously Presented) The composition according to claim 177, wherein said at least one (meth)acrylic copolymer has a T<sub>g</sub> ranging from about -100 °C to about 15 °C.

270. (Previously Presented) The composition according to claim 177, further comprising at least one constituent chosen from reducing agents; silanes; fatty substances; thickeners; plasticizers; anti-foaming agents; hydrating agents; fillers; sunscreens; active haircare agents; perfumes; preservatives; cationic, anionic, nonionic, and amphoteric surfactants; cationic, anionic, nonionic, and amphoteric polymers; polyols; proteins; provitamins; vitamins; dyes; tints; bleaches; and pH adjusting agents.

271. (Previously Presented) The composition according to claim 270, wherein said at least one constituent is chosen from cationic, anionic, nonionic, and amphoteric polymers.

272. (Previously Presented) The composition according to claim 178, wherein the composition further comprises a cosmetically acceptable vehicle.

273. (Previously Presented) The composition according to claim 178, wherein said at least one (meth)acrylic copolymer is an emulsion.

274. (Previously Presented) The composition according to claim 178, wherein said at least one (meth)acrylic copolymer is crosslinked with at least one polyfunctional cross-linking agent.

275. (Previously Presented) The composition according to claim 274, wherein said at least one polyfunctional crosslinking agent is chosen from divinylbenzene, alkyl diacrylates, alkyl triacrylates, alkyl tetracrylates, and monoethylenically unsaturated aromatic ketones.

276. (Previously Presented) The composition according to claim 274, wherein said at least one polyfunctional crosslinking agent is chosen from multifunctional aziridine amides and metal ion crosslinkers.

277. (Previously Presented) The composition according to claim 273, wherein said emulsion has a pH less than or equal to about 7.

278. (Previously Presented) The composition according to claim 178, wherein said at least one (meth)acrylic copolymer is chosen from nonionic and weakly anionic (meth)acrylic copolymers.

279. (Canceled).

280. (Previously Presented) The composition according to claim 178, wherein the amount of said at least one (meth)acrylic copolymer ranges from about 0.1 to about 15 weight percent.

281. (Previously Presented) The composition according to claim 178, wherein said at least one (meth)acrylic copolymer has a Tg ranging from about -100 °C to about 15 °C.

282. (Previously Presented) The composition according to claim 178, further comprising at least one constituent chosen from reducing agents; silanes; fatty substances; thickeners; plasticizers; anti-foaming agents; hydrating agents; fillers; sunscreens; active haircare agents; perfumes; preservatives; cationic, anionic, nonionic, and amphoteric surfactants; cationic, anionic, nonionic, and amphoteric polymers; polyols; proteins; provitamins; vitamins; dyes; tints; bleaches; and pH adjusting agents.

283. (Previously Presented) The composition according to claim 282, wherein said at least one constituent is chosen from cationic, anionic, nonionic, and amphoteric polymers.

284. (Previously Presented) The composition according to claim 180, wherein the composition further comprises a cosmetically acceptable vehicle.

285. (Previously Presented) The composition according to claim 180, wherein said at least one (meth)acrylic copolymer is an emulsion.

286. (Previously Presented) The composition according to claim 180, wherein said at least one (meth)acrylic copolymer is crosslinked with at least one polyfunctional cross-linking agent.

287. (Previously Presented) The composition according to claim 286, wherein said at least one polyfunctional crosslinking agent is chosen from



divinylbenzene, alkyl diacrylates, alkyl triacrylates, alkyl tetracrylates, and monoethylenically unsaturated aromatic ketones.

288. (Previously Presented) The composition according to claim 286, wherein said at least one polyfunctional crosslinking agent is chosen from multifunctional aziridine amides and metal ion crosslinkers.

289. (Previously Presented) The composition according to claim 285, wherein said emulsion has a pH less than or equal to about 7.

290. (Previously Presented) The composition according to claim 180, wherein said at least one (meth)acrylic copolymer is chosen from nonionic and weakly anionic (meth)acrylic copolymers.

291. (Canceled).

292. (Previously Presented) The composition according to claim 180, wherein the amount of said at least one (meth)acrylic copolymer ranges from about 0.1 to about 15 weight percent.

293. (Previously Presented) The composition according to claim 180, wherein said at least one (meth)acrylic copolymer has a T<sub>g</sub> ranging from about -100 °C to about 15 °C.

294. (Previously Presented) The composition according to claim 180, further comprising at least one constituent chosen from reducing agents; silanes; fatty substances; thickeners; plasticizers; anti-foaming agents; hydrating agents; fillers; sunscreens; active haircare agents; perfumes; preservatives; cationic, anionic, nonionic,

and amphoteric surfactants; cationic, anionic, nonionic, and amphoteric polymers; polyols; proteins; provitamins; vitamins; dyes; tints; bleaches; and pH adjusting agents.

295. (Previously Presented) The composition according to claim 294, wherein said at least one constituent is chosen from cationic, anionic, nonionic, and amphoteric polymers.

296. (Previously Presented) The composition according to claim 181, wherein the composition further comprises a cosmetically acceptable vehicle.

297. (Previously Presented) The composition according to claim 181, wherein said at least one (meth)acrylic copolymer is an emulsion.

298. (Previously Presented) The composition according to claim 181, wherein said at least one (meth)acrylic copolymer is crosslinked with at least one polyfunctional cross-linking agent.

299. (Previously Presented) The composition according to claim 298, wherein said at least one polyfunctional crosslinking agent is chosen from divinylbenzene, alkyl diacrylates, alkyl triacrylates, alkyl tetracrylates, and monoethylenically unsaturated aromatic ketones.

300. (Previously Presented) The composition according to claim 298, wherein said at least one polyfunctional crosslinking agent is chosen from multifunctional aziridine amides and metal ion crosslinkers.

301. (Previously Presented) The composition according to claim 297, wherein said emulsion has a pH less than or equal to about 7.

302. (Previously Presented) The composition according to claim 181, wherein said at least one (meth)acrylic copolymer is chosen from nonionic and weakly anionic (meth)acrylic copolymers.

303. (Canceled).

304. (Previously Presented) The composition according to claim 181, wherein the amount of said at least one (meth)acrylic copolymer ranges from about 0.1 to about 15 weight percent.

305. (Previously Presented) The composition according to claim 181, wherein said at least one (meth)acrylic copolymer has a Tg ranging from about -100 °C to about 15 °C.

306. (Previously Presented) The composition according to claim 181, further comprising at least one constituent chosen from reducing agents; silanes; fatty substances; thickeners; plasticizers; anti-foaming agents; hydrating agents; fillers; sunscreens; active haircare agents; perfumes; preservatives; cationic, anionic, nonionic, and amphoteric surfactants; cationic, anionic, nonionic, and amphoteric polymers; polyols; proteins; provitamins; vitamins; dyes; tints; bleaches; and pH adjusting agents.

307. (Previously Presented) The composition according to claim 306, wherein said at least one constituent is chosen from cationic, anionic, nonionic, and amphoteric polymers.

308. (Canceled).

309. (Previously Presented) A reshapable hair styling composition comprising:

(1) at least one (meth)acrylic copolymer present in an amount ranging from about 0.01 to about 15 weight percent of the total weight of the composition, wherein said at least one (meth)acrylic copolymer comprises:

(a) from about 10 to about 90 weight percent of units derived from at least one monomer chosen from n-butyl acrylate monomers,

(b) from about 2 to about 50 weight percent of units derived from at least one monomer chosen from 2-hydroxy ethyl (meth)acrylate monomers, and

(c) up to about 80 weight percent of units derived from at least one monomer chosen from 2-ethyl hexyl acrylate monomers,

(2) at least one surfactant present in an amount ranging from about 5 to about 30 weight percent of the total weight of the composition, and

(3) at least one conditioning agent chosen from cationic polymers and silicones, wherein said composition provides a reshapable effect.

310. (Previously Presented) The composition according to claim 309, wherein the composition is a shampoo.

311. (Previously Presented) The composition according to claim 309, wherein the composition is a conditioner.

**IX. Evidence Appendix**

None.

**X. Related Proceedings Appendix**

None.